

GROUNDS FOR TRAVERSAL

The Examiner states that if Group II is elected, that “applicants must elect a single invention which is the method drawn to one specific sequence to which the claims will be restricted”. The Examiner considers that “Group II are comprised of multiple inventions which are the methods drawn to different and distinct sequences which do not render obvious each other and thus are patentably distinct.” The Examiner has separated the invention of Group II according to the sequence of either SEQ ID NO:1, SEQ ID NO:2 or SEQ ID NO:3. In light of the claim amendments presented herein, Applicants address the issue raised by the Examiner despite not having elected Group II.

The Examiner states that “the limited resources of the Office no longer permit examination of more than one sequence in an application.” Applicants note, however, that SEQ ID NO:1 corresponds to the open reading frame of SEQ ID NO:3 and that both SEQ ID NO:1 and SEQ ID NO:3 encode the protein sequence of SEQ ID NO:2. Therefore, a search of SEQ ID NO:1 necessarily encompasses a search of SEQ ID NO:3, and since both encode the protein sequence of SEQ ID NO:2, such a search would not place any additional burden on the Examiner. In short, the protein sequence of SEQ ID NO:2 is the same as the protein encoded by SEQ ID NO:1 and the protein encoded by SEQ ID NO:3.

If the Examiner agrees to the proposed modification, Applicants elect Group I with claims directed to methods using the polypeptide of SEQ ID NO:2 or to methods using polypeptides encoded by the nucleic acid sequence of SEQ ID NO:1 or SEQ ID NO:3. Claims readable thereon are claims 50-51 and 80-81. In the event that the Examiner disagrees, Applicants elect Group I with claims directed to methods using the polypeptide of SEQ ID NO:2.

Applicants hereby reserve the right to traverse the above restriction with respect to non-elected Group II in this or subsequent applications.